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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,265	10/21/2003	Dominik J. Schmidt		4596

21906 7590 11/07/2006

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HOUSTON, TX 77057-2631

EXAMINER

DOAN, KIET M

ART UNIT PAPER NUMBER

2617

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/690,265		SCHMIDT, DOMINIK J.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Kiet Doan		2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05/20/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

This office action is response to Remarks file on 07/05/2006.

### ***Response to Arguments***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality mail on 05/09/2006 of that action is withdrawn.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4, 6-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of Schmidt of U.S. Patent No. 7,058,040. Although the conflicting claims are not identical, they are not patentably distinct from each other because they recited the same concept of desired level of

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service, dynamically adjusting number of time slot except the application has extra limitation of SIM card with obviousness obtain in processor of wireless device/mobile unit.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-3, 6-10 and 12-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Croome et al. (Pub. No. 2004/0014423) in view of Hamalainen et al. (Patent No. 6,240,079)

Consider **claim 1**, Croome teaches a method for securing a wireless communication medium using a Subscriber Identity Module (SIM) card, comprising: determining a SIM card insertion and if so accessing SIM data and transmitting the SIM data to a base station for comparison with a local copy of an authorized user data file; granting mobile unit access to the base station If the comparison is indicative of a match and otherwise indicating an access failure (Page 1, Paragraphs [0005-0009], teach SIM card which install in mobile phone and authorization for grant access when pin are matching); and. Croome teaches the limitation of claim as discuss **but silent on**

If the mobile unit access is grant, determining a desired level of service; and dynamically adjusting a number of time slots assigned to the medium during the transmission to remain within limits of said desired level of service.

In an analogous art, Hamalainen teaches "Data transmission method in a TDMA mobile communication system". Further, **Hamalainen teaches** If the mobile unit access is grant, determining a desired level of service; and dynamically adjusting a number of time slots assigned to the medium during the transmission to remain within limits of said desired level of service (Abstract, C2, L25-50, C3, L59-60, C4, L1-10, C5, L1-50 teach the desired level of service and dynamically adjusting a number of time slots).

Therefore, it would have been obvious at the time that the invention was made that person having ordinary skill in the art to modify Croome, and Hamalainen system, such that transmitting the SIM data to a base station for comparison with a local copy of an authorized user data file and determining a desired level of service and number of time slots assigned to the medium during the transmission to remain within limits of said desired level of service, to provide means for the security when the users access base station and the available service time slots during transmission.

Consider **claims 2-3, 9-10 and 13-14**. Croome teaches the method of claim 1, wherein the wireless communication medium conforms to an 802.11/Bluetooth specification (Paragraphs [0003-0004], [0034]).

Consider **claim 6**. Hamalainen teaches the method of claim 1, wherein the dynamic adjusting comprises: determining available time-slot resources; detecting the wireless communication medium that fails to meet said desired level of service; allocating the wireless communication medium to a configuration having additional time

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slots; and transmitting a channel assignment message including information on the allocated configuration with the additional time slots (C2, L25-50, C4, L1-45, C5, L1-50).

Consider **claim 7**. Hamalainen teaches the method of claim 6, further comprising instructing transceivers to communicate only in their newly allocated time-slots (C4, L40-45).

Consider **claims 8 and 12**. Croome teaches a method for data transmission over first and second media that overlap in frequency, comprising: securing access using a SIM card (Page 8, Paragraph [0075]); selecting one of the first and second wireless media as a common wireless medium; routing/instructing transceivers for the first and second media to communicate only through the common wireless medium (Page 8, Paragraphs [0093-0097], Fig.4A-4B, Illustrate wireless device No.400 and No.401 which read on first and second wireless and communicated/transceiver through the common wireless medium).

**2. Claims 4, 11, 15-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Croome et al. (Pub. No. 2004/0014423) in view of Hamalainen et al. (Patent No. 6,240,079) and further view of Melaku et al. (Pub. No. 2003/0144793).

Consider **claims 4, 11 and 15**. Croome and Hamalainen teach the limitation of claims as discuss above **but silent on** the method of claim 1, wherein the wireless communication medium operates 2.4 gigahertz.

In an analogous art, Melaku teaches "Wireless personalized self-service network". Further, **Melaku teaches** the method of claim 1, wherein the medium is at approximately 2.4 gigahertz. (Paragraphs [0039], [0045]).

Therefore, it would have been obvious at the time that the invention was made that person having ordinary skill in the art to modify Croome, Raffel and Melaku system, such that the wireless communication medium operates 2.4 gigahertz, to provide means for capable of operate in short range or local area communication.

Consider **claim 16**, Melaku teaches the method of claim 12, wherein a packet is initially transmitted at the highest rate supported by both wireless media (Paragraphs [0040-0041]).

Consider **claim 17**, Melaku teaches the method of claim 16, further comprising retrying the packet at the next lower rate if the packet is not successfully acknowledged (Paragraphs [0039-0041]).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiet Doan whose telephone number is 571-272-7863. The examiner can normally be reached on 8am - 5pm.

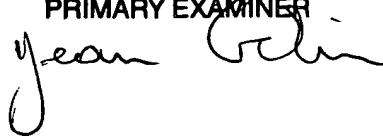
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kiet Doan  
Patent Examiner

JEAN GELIN  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Jean Gelin", written over the printed name and title.